

## GENERAL FACTUAL ASSERTIONS

- ## FACTUAL ASSERTIONS AS TO ATTORNEY'S FEES

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6. The time records have been edited to remove confidential communications with the client. The Plaintiff reserves the right to amend its claim for attorney's fees and costs should Plaintiff's Counsel have to attend a Default Hearing and Plaintiff may also bear certain costs with reference to said hearing. The details of the time records to-date are set forth below. Also, I have already reduced the billable time from the actual time spent on reviewing and sorting my time records to take into account the first circuit case of *Brewster v. Dukakis*, 3 Fed.3d 488, (1<sup>st</sup> Cir. 1993) which provides that attorney's fees for work on affidavit for fees should be billed at a reduced rate. The time referenced below includes all of the time claimed for this action except that for the purposes of this Default Judgment Motion the fees related to the Motions for extensions of time in this action and for the fees for New Hampshire counsel are not being sought.

**ATTORNEY'S HOURS:**

11/12/03	Review Draft of Complaint	.30
12/23/03	Review Answer	.30
6/14/04	Review Draft settlement offer and Scheduling proposal	.50
7/7/04	Court hearing on scheduling	1.50
11/22/04	Review Drafts and revise all discovery	.70
1/7/05	Draft letter regarding discovery	.30
1/13/05	Draft In Limine motion and related documents	2.00
5/2/05	Draft Motion for Default Judgment Memorandum and Affidavit	2.00
<b>SUBTOTAL of hours</b>		<b>10.30</b>
At \$200.00 per hour		

**SUBTOTAL amounts** **\$2,060.00**

**PARALEGAL'S HOURS:**

11/12/03	Draft Complaint	.70
6/14/04	Draft settlement offer and Scheduling proposal	.50

<b>SUBTOTAL of hours</b>	<b>1.20</b>
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At \$90.00 per hour

<b>SUBTOTAL amount</b>	<b>\$108.00</b>
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<b>Total Amount</b>	<b>\$2,168.00</b>
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7. No attorney's fees have been paid by the Plaintiff in the case at bar because the case is covered by a contingency fee agreement and there has not been and may never be any actual recovery.

**OTHER FACTUAL ASSERTIONS**

8. The Default of the Defendant has been entered for failure to appear at a hearing. This default arose after I attended a prior hearing and after I did discovery in this matter. This explains why the attorneys' fees are higher than a default that occurs directly after the Complaint.
9. The undersigned believes the Court can assess statutory damages in this matter without testimony. Yet, if the court believes testimony is necessary or even helpful, the Plaintiff will fully cooperate and provide fact witnesses and/or expert witnesses if required.
10. On information and belief, the Defendant is not an infant or an incompetent and the Defendant is not in the military service

Subscribed and sworn to, under the pains and penalties of perjury, this 02 day of May 2005.

/s/ John M. McLaughlin  
John M. McLaughlin  
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